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December 14, 2004

Country of Origin Labeling Program
Room 2092-S
Agricultural Marketing Service
U.S. Department of Agriculture
STOP 0249
1400 Independence Avenue, SW
Washington, DC 20250-0249

Re: Interim Final Rule for Mandatory Country of Origin Labeling of Fish and Shellfish; Request for Extension of Comment Period

Dear Sir or Madam,

On behalf of the Food Marketing Institute¹ (FMI), the National Grocers Association² (NGA) and our collective member companies, we respectfully request that the Agricultural Marketing Service of the U.S. Department of Agriculture extend the comment period for the interim final rule (IFR) for mandatory country of origin labeling (COL) for fish and shellfish. 69 Fed. Reg. 59708 (Oct. 5, 2004). As published, comments are due on January 3, 2005.

¹ FMI conducts programs in research, education, industry relations and public affairs on behalf of its 1,500 member companies — food retailers and wholesalers — in the United States and around the world. FMI's U.S. members operate approximately 26,000 retail food stores with a combined annual sales volume of \$340 billion — three-quarters of all food retail store sales in the United States. FMI's retail membership is composed of large multi-store chains, regional firms and independent supermarkets. Its international membership includes 200 companies from 50 countries.

² N.G.A. is the national trade association representing the retail and wholesale grocers that comprise the independent sector of the food distribution industry. An independent retailer is a privately owned or controlled food retail company operating in a variety of formats. Most independent operators are serviced by wholesale distributors, while others may be partially or fully self-distributing. Some are publicly traded but with controlling shares held by the family and others are employee owned. Independents are the true "entrepreneurs" of the grocery industry and dedicated to their customers, associates, and communities. N.G.A. members include retail and wholesale grocers, state grocers associations, as well as manufacturers and service suppliers. For more information about N.G.A. and the independent sector of the industry, see the N.G.A. website: www.NationalGrocers.org.

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The COL IFR sets forth the procedures for the retail and seafood industries to follow to implement the mandatory country of origin labeling law that was passed as part of the 2002 Farm Bill. As you know, the law requires retailers to inform consumers of the country of origin and method of production of seafood products that are offered for sale. Consequently, retailers shoulder a large responsibility in terms of implementing the law.

Consistent with their responsibility, retailers have worked diligently to develop the systems to implement the IFR as required by USDA. It is through this process that retailers are discovering some additional challenges that were not previously understood as the IFR represents a significant departure in a number of respects from the Department's previous two interpretations of the mandatory COL law, 68 Fed. Reg. 61944 (Oct. 30, 2003); 67 Fed. Reg. 63367 (Oct. 11, 2002). Although we believe that many of the changes are improvements, the retail industry is still sorting through them.

For example, based on the standards set forth in the IFR, we believe that it may be possible to simplify the recordkeeping requirements to ease the cost of the rule without impacting the rule's efficacy, however, we will need some additional time to explore this issue more fully. Moreover, just last week, the Food and Drug Administration (FDA) published a final rule implementing the Bioterrorism Act's recordkeeping requirements for a broad range of food products, including seafood, 69 Fed. Reg. 71561 (Dec. 9, 2004). Our industry will need time to consider the interplay between FDA's requirements and USDA's seafood COL requirements.

As you may expect, the retail food industry experiences its greatest activity of the year during the three months covered by the comment period, culminating in a final rush in December. In order to comment fully and properly on the interim final rule, including the essential recordkeeping provisions, we respectfully request that you extend the comment period for at least an additional two weeks.

We appreciate your attention to our request and look forward to your earliest response. If you have any questions, please do not hesitate to contact Deborah White at 202 220 0614 or dwhite@fmi.org or Tom Wenning at 703.516.8805 or twenning@nationalgrocers.org

Respectfully,



Deborah R. White
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Regulatory Affairs



Thomas F. Wenning
Senior Vice President and General
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Cc: Barry Carpenter